IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

MFA.No. 324 of 2001()

OPMV.1267/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA
.....

APPELLANT: PETITIONER

K.SIVARAJAN, EDAYILATHARA HOUSE,
THODIYOOR P.O., KARUNAGAPPALLY ,
NOW RESIDING AT C/O. VELAYUDHAN,
MANAGALATHU HOUSE, KARUKADAM P.O.,
KOTHAMANGALAM.

BY ADV. SRI.A.ANTONY
SRI.MATHEW SKARIA
SRI.JOSE THOMAS
SMT.REKHA LAURIAN

RESPONDENTS: RESPONDENTS
----

1. BIJU K.C., KOCHUKUDIYIL HOUSE,
PUTHUPARIYARAM, MANAKAD P.O.
THODUPUZHA.

2. SUBASH, S/O. RAMAN,
PUTHIKAPRAMBIL HOUSE,
VENDUVAZHY KARA, KOTHAMANGALAM.

3. NEW INDIA ASSURANCE CO. LTD.,
BRANCH OFFICE, MUVATTUPUZHA

BY ADV. SRI.M.JACOB MURICKAN - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & V. GIRI, JJ.

M.F.A.No. 324 of 2001

Dated this the 17th day of August, 2007

Judgment

Koshy,J.

Appellant/Petitioner met with an accident while he was travelling as a passenger in an autorickshaw. Against a claim of Rs.2,00,000/-, tribunal has awarded only Rs.63,300/-. Tribunal found that the accident occurred due to the negligent driving of the autorickshaw insured by the third respondent. It was also found that the driver had no driving licence. Therefore, the insurance company was given the recovery right. Only quantum of compensation is disputed in this appeal.

2. As a result of the accident, the appellant sustained blunt injuries on the abdomen. He was treated as an inpatient for 26 days. The tribunal found that there was a disfiguration and ugly appearance, but, awarded Rs.7,800/- as compensation for disfiguration. Main contention of the appellant is that because of the injuries in the abdomen, he is unable to do hard work, but, no compensation was awarded for disability and loss of earning power. The tribunal has awarded Rs.15,000/-

towards loss of amenities, discomfort etc. It is his case that even though a certificate assessing permanent disability was not produced, it is certified by the doctor that he will not be able to do hard work. He was a stone cutter and it is a hard manual work. We are of the opinion that another Rs.7,000/- should have been granted for disability and loss of earning power. Therefore, we award Rs.7,000/- more on this count. The above amount of Rs.7,000/- also should be deposited by the third respondent insurance company with 7.5 % interest from the date of application till its deposit over and above the amount decreed by the tribunal. The insurance company is free to recover this amount from the insured in execution of the award as held by the tribunal.

The appeal is allowed partly.

J.B.KOSHY
JUDGE

V.GIRI
JUDGE

vaa

J.B. KOSHY AND
V.GIRI,JJ.

M.F.A.NO.324/2001

Judgment

Dated:17th AUGUST, 2007